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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/772,128	02/04/2004	Steven F. Seyer	702.120	4272

37902 7590 03/06/2007
WRIGHT MEDICAL TECHNOLOGY, INC.
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ARLINGTON, TN 38002-9501

EXAMINER

SCHILLINGER, ANN M

ART UNIT	PAPER NUMBER
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3738

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	03/06/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/772,128

Applicant(s)

SEYER ET AL.

Examiner

Ann Schillinger

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 December 2006.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1,2,10-12,14 and 16-20 is/are allowed.
- 6) ☒ Claim(s) 3-9,13,15 and 21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 04 February 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application
- ☒ Other: Attachment A.

DETAILED ACTION

Drawings

The amendments to the specification matching the drawings were received on 12/28/2006. These amendments are accepted.

Claim Objections

Claims 2 and 5-21 are objected to because of the following informalities: an indefinite article is used to address these dependent claims. Definite articles should be used to begin the claims. Appropriate correction is required.

Allowable Subject Matter

Claims 1, 2, 10-12, 14, and 16-20 are allowed.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 3, 4, 6-9, 13, 15 and 21 are rejected under 35 U.S.C. 102(b) as being anticipated by Gilbert et al. (U.S. Pat. No. 5,904,688). Gilbert et al. discloses the following of claim 3: a method of locking an acetabular component to an insertion and extraction tool, comprising the steps of providing an insertion and extraction tool (14, 32) in a locked position (col. 4, lines 45-48) wherein locking protrusions (48) of the tool are extended to be disposed alongside engagement protrusions (46) of the tool; applying an actuating force to a proximal end of the tool to move the tool to an unlocked position wherein the locking protrusions are retracted away from

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the engagement protrusions (col. 4, line 65 through col. 5, line 10); moving the tool in a longitudinal direction toward an acetabular component to insert the engagement protrusions into recesses of the acetabular component; rotating the tool about its central longitudinal axis to present a portion of each recess unoccupied by the corresponding engagement protrusion; and releasing the actuating force from the tool to automatically return the tool to the locked position such that the locking protrusions enter the unoccupied portions of the recesses and lock the acetabular component to the tool (col. 4, lines 31-64).

Gilbert et al. discloses the following of claim 4: an acetabular component (12) for releasable engagement with locking structure of an insertion and extraction tool (14, 32), the locking structure having at least one foot (46) and an adjacent locking finger (48), comprising a thin-walled, partial spherical body (see element 12's shape in Figure 1) having a peripheral end surface (see Attachment A), an inner surface (16) circumscribed by said peripheral end surface and defining an articular surface (28) for a femoral head, an outer surface (22), and a plurality of angled recesses (24, 26) along said outer surface (see Figure 1), said recesses having entry portions (24) along said peripheral end surface for the locking structure of the insertion and extraction tool, said entry portion leading into an engagement portion (26) angled from said entry portion, each said recess having an open outer periphery (see Attachment A) extending from said entry portion to said engagement portion (see Figure 1).

Gilbert et al. discloses the following of claim 6: an acetabular component for releasable engagement with locking structure of an insertion and extraction tool as recited in claim 4, wherein each said recess is sized such that when said foot is in said recess, an outer edge of said

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foot substantially matches said outer surface along said open outer periphery of said recess (see Figures 3-6).

Gilbert et al. discloses the following of claim 7: an acetabular component for releasable engagement with locking structure of an insertion and extraction tool as recited in claim 4, wherein said outer surface of said acetabular component is configured for attachment to acetabular bone (col. 1, lines 11-13).

Gilbert et al. discloses the following of claim 8: an acetabular component for releasable engagement with locking structure of an insertion and extraction tool as recited in claim 7, wherein said outer surface comprises a porous or rough coating configured to promote bone in-growth or on-growth (col. 3, lines 14-17).

Gilbert et al. discloses the following of claims 9, 13, 15, and 21: an acetabular component for releasable engagement with locking structure of an insertion and extraction tool, wherein said acetabular component has three said recesses (see Figure 1).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Gilbert et al. in view of Duncan et al. (U.S. Pat. No. 5,133,771). Gilbert et al. discloses the invention substantially as claimed, however, Gilbert et al. does not disclose the specific thickness of the

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acetabular cup. Duncan et al. teaches the specific thickness of the acetabular cup as being between 3-6 mm in col. 5, line 54 through col. 6, line 14 for the purpose of incorporating a thickness range that will typically optimize the amount of adhesive needed for the prosthetic and minimize the amount of hardware for the average patient. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to specify the thickness of the acetabular cup as being between 3-6 mm in order to incorporate a thickness range that will optimize the amount of adhesive needed for the prosthetic and minimize the amount of hardware.

Response to Arguments

Applicant's arguments, filed 12/28/2006, with respect to claims 1, 2, 10-12, 14, and 16-20 have been fully considered and are persuasive. The rejection of claims 1, 2, 10-12, 14, and 16-20 has been withdrawn.

Applicant's arguments with respect to claims 3, 4, 6-9, 13, 15 and 21 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ann Schillinger whose telephone number is (571) 272-6652. The examiner can normally be reached on Mon. thru Fri. 9 a.m. to 4 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Corrine McDermott can be reached on (571) 272-4754. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Ann Schillinger
February 22, 2007


ALVIN J. STEWART
PRIMARY EXAMINER

Attachment A

